

Memorandum

To: DEPUTY DISTRICT DIRECTORS, Construction
CONSTRUCTION ENGINEERS
RESIDENT ENGINEERS

Date: July 13, 2001

File: CPD-01-6

From: DEPARTMENT OF TRANSPORTATION
DIVISION OF CONSTRUCTION, MS 44

Subject: Unsatisfactory Progress of Work

Whenever a contractor's performance is unsatisfactory the resident engineer shall notify the contractor in writing of the apparent failure and, when appropriate, request corrective action. Notifying a contractor of the noncompliance should be standard practice. Failure on the part of the state to act on noncompliance issues does not relieve the contractor of contract responsibility but may indicate a lack of good faith on the part of the state in administering the contract. Partnering principles also require early notification of problems.

Usually determining a contractor's performance requires judgement; however, determining unsatisfactory progress of work is derived directly from the "Construction Progress Chart" (Form CEM-2601). The Contract Administration System (CAS) uses the formula contained on this form to determine progress and automatically notifies the resident engineer when progress is unsatisfactory. The revised *Construction Manual* requires, "*Whenever the contractor fails to prosecute the work adequately, as evidenced by the plots of actual progress, the resident engineer must notify the contractor of the apparent lack of progress.*" Contractor notification is mandatory.

Currently, section 9-1.06 of the *Standard Specifications* allows the department to reduce contract retention after 20% of the work is completed from 10% to 5% *if satisfactory progress is being made*. The Division of Construction is circulating a specification change that would define satisfactory progress by the formula used in Form CEM-2601.

The Division of Construction will be querying CAS to identify all on-going contracts with unsatisfactory progress notices. On the basis of this data the construction field coordinators will be meeting with the district construction deputies to ensure that the contracts with unsatisfactory progress notices have been appropriately administered.

ORIGINAL SIGNED BY:

ROBERT PIEFLOW
Chief
Division of Construction

JM:sf